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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/538,196	06/09/2005	Jennifer Poole Peckham	PU4964USw	1774
23347	7590	12/01/2008		
GLAXOSMITHKLINE CORPORATE INTELLECTUAL PROPERTY, MAI B482 FIVE MOORE DR., PO BOX 13398 RESEARCH TRIANGLE PARK, NC 27709-3398			EXAMINER GALLIS, DAVID E	
			ART UNIT 1625	PAPER NUMBER
			NOTIFICATION DATE 12/01/2008	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/538,196	<b>Applicant(s)</b> PECKHAM ET AL.	
	<b>Examiner</b> DAVID E. GALLIS	<b>Art Unit</b> 1625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 July 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-27 and 33-38 is/are pending in the application.
- 4a) Of the above claim(s) 22-27 and 36-38 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2 is/are allowed.
- 6) ☒ Claim(s) 1, 5, 15 and 18 is/are rejected.
- 7) ☒ Claim(s) 3, 4, 6-14, 16, 17, 19-21, and 33-35 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/9/05</u> .  | 6) <input type="checkbox"/> Other: _____                          |

### DETAILED ACTION

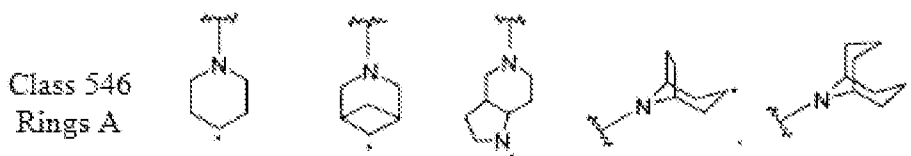
1. Claims 1 through 27 and 33 through 38 are pending. Claims 22 through 27 and 36 through 38 have been withdrawn from consideration. Claims 2, 22, 24, 26, 27, 33, 36, and 38 have been amended. Claims 28 through 32 have been canceled.

Applicants' claim to priority from provisional application 60/433,626 filed December 13, 2002 is acknowledged.

### *Election/Restrictions*

2. Applicants' election of Group III, claims 1 through 21 and 33 through 35 is acknowledged. Applicants state that election was made with traverse, however, no arguments are presented against the restriction requirement. Therefore, the election is hereby MADE FINAL. The subject matter for the elected Group III is as follows:

III. Claims 1 through 21 and 33 through 35, drawn to compounds of formula (I) and pharmaceutical compositions thereof, comprising a ring A functionality shown below from class 546 and various subclasses.



### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent. And

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 5, 15 and 18 are rejected under 35 U.S.C. 102(a) and (e) as being anticipated by Ko et al. (US 6,331,541 B1, December 18, 2001).

5. Ko et al. clearly anticipates claims 1, 5, 15 and 18 teaching compounds of formula (I) wherein A = piperidiny,  $R^{10}$  = hydrogen,  $R^1 = -N(R^9)-(Y)_m-R^3$ , wherein  $R^9=H$ ,  $Y=-C(O)-$ ,  $m=1$ ,  $R^3=N(R^0)_2$ ,  $R^0=H$ , substituted aryl and heteroaryl,  $R^2=-(CH_2)_a-(-V_b-R^+)$ , where  $b=0$  and  $R^+$ =substituted and unsubstituted aryl and heteroaryl (see columns 109 through 208, TABLE 4, structures 16a, 16b, 17a, and 17b).

### ***Claim Objections***

6. Claims 1, 15, 20 and 21 are objected to as containing non-elected subject matter with respect to ring A characteristics. Ring A is restricted to the ring systems illustrated above. Correction to the claims is required.

7. Claims 3, 4, 6 through 14, 16, 17, 19 through 21, and 33 through 35 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David E. Gallis whose telephone number is 571-272-9068. The examiner can normally be reached on Mon-Thur 8:30-7:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janet Andres can be reached on 571-272-1600. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

David E. Gallis  
Patent Examiner

/ Bernard Dentz/

Primary Examiner, Art Unit 1625